IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.219 OF 2005

The Worli Dhobighat Association
and others ... Petitioners

versus

The Slum Rehabilitation Authority
and others ... Respondents

Mr.D.S.Sakhalkar for petitioners.

Mr.G.D.Uttangale for respondents 1 and 2.

Ms.P.A.Purandare for respondent no.3.

Mr.Y.S.Jahagirdar, Sr.Counsel with S.A.Sawant for respondent no.6.

Mr.Shyam Diwan with H.V.Kode for respondent no.5

Mr.A.J.Almeida for respondent no.7.

Mr.Rajiv More for respondent no.4.

CORAM : H.L.GOKHALE AND
S.C.DHARMADHIKARI, JJ.

DATE : 10th March 2005

PC :

1. Heard Mr.Sakhalkar in support of this petition which is filed by Worli Dhobi Ghat Association. This Association claims to represent some 32 persons who are said to be

occupiers of the area of land for Dhobi Ghat situated on one road known as Manjrekar Lane off Dr.E.Moses Road, at Worli, Mumbai. The names of these persons are not given in this petition. The petitioner nos.2 to 5 are claimed to be having structures on this parcel of land admeasuring some 770 sq. mtrs.. This parcel of land is a part of a larger parcel of land admeasuring some 2499.26 sq.mtrs. and situated at the heart of that plot. There are large number of hutments situated on this adjoining area.

2. In a scheme developed by the State Government for rehabilitation of the Slum Dwellers, a proposal was made by more than 70% of the occupants of this slum area to the Slum Rehabilitation Authority (hereinafter referred to as "SRA" for short) They formed a co-operative housing society by name "Takshashila Co-operative Housing Society" and appointed one Sadguru Enterprises, respondent no.6 herein, as their Developer. The proposal for this entire plot was forwarded to the SRA and also to the Municipal Corporation of Greater Bombay which owns this plot of land. After examining all the aspects, the SRA issued Letter of Intent (LOI) for

developing this property under the Development Control Regulation No.33(10) and Appendix-IV of the amended Development Control Regulations of 1991. This LOI was issued on 27th June 2003. The officers of Municipal Corporation also applied their mind and the Assistant Municipal Commissioner, "G" South Ward signed on the plan giving the total area of the plot for the scheme.

3. Inspite of receiving this LOI, Commencement Certificate was not being issued. Therefore, a writ petition was filed by this Takshashila Co-operative Housing Society which is respondent no.5 to this petition. That petition No.2967 of 2004 was heard by a Division Bench of this Court presided over by Hon’ble the Chief Justice and Dr.D.Y.Chandrachud, JJ.. The State of Maharashtra was respondent no.1 to that petition, SRA was respondent no.2, it’s Chief Executive Officer was respondent no.3 and Executive Engineer was respondent no.4, Lokhandwala Construction Pvt. Ltd. was respondent no.5 and Bombay Municipal Corporation was respondent no.6. When that petition was heard by the Division Bench, one Mr.Nilkanth Patwardhan, Executive Engineer of SRA, filed an affidavit and pointed out therein that a representation had been made

by the Worli Dhobi Ghat Association who are petitioners herein, that their plot which is of some 770 sq. mtrs. be deleted from this entire scheme. It was also pointed out that the Municipal Corporation by it's letter dated 13th April 2004 had informed the SRA that the plan submitted by Takshashila Co-op. Housing Society includes this portion and the decision in that behalf be reviewed and this portion be carved out. In para no.6 of that affidavit it was also pointed out that the matter had gone to the Minister for Housing, State of Maharashtra for excluding this parcel of land of 770 sq. mtrs. and the Minister for Housing had given a decision on 30th August 2004 that the portion of 770 sq.mtrs. be excluded from Annexure-II issued to the petitioners.

4. After the matter was heard, the Division Bench by it's order dated 14th December 2004 directed the SRA to consider the cause of petitioners. The Division Bench directed the SRA to give hearing to the petitioners and pass a reasoned order. Thereafter the petition was disposed off.

5. The matter was accordingly heard by SRA. The

matter was infact to be heard on 29th December 2004 but it was preponed on 27th December 2004 at the request of petitioners. After hearing the petitioners and after having gone through the record, the officer noted that though there was a complaint from the members of Worli Dhobi Ghat Association, the complaint could not survive in view of the fact that the Vacant Land Tenures come to an end upon the declaration of slum rehabilitation scheme/area. He also noted that area occupied by this Association formed a part and parcel of the slum and could not be carved out therefrom unless and until there is a clear order from the appropriate authority i.e. Slum Tribunal. The Chief Executive Officer of SRA passed the order on 28th December 2004 directing the Commencement Certificate be issued.

6. Now this petition has been filed by the Dhobi Ghat Association, which was not a party to the earlier petition nor to the earlier proceedings, praying that this area of 770 sq. mtrs. be excluded. Mr.Sakhalkar appears for petitioners and is supported by Mr.Almeida for respondent no.7. The petition is opposed by Mr.Y.S.Jahagirdar, Sr.Counsel appearing for respondent no.6 Developer and by Mr.Diwan

appearing for respondent no.5 Society. Mr.Sakhalkar submits that the members of Dhobi Ghat Association have their structures on this parcel of land and it ought to be entertained separately and since the Minister has passed an order in favour of the Association, the parcel of land occupied by it be excluded. Mr.Sakhalkar relies upon Section 154 of MRTP Act which lays down that the Planning Authority shall carry out the directions as may be issued by the State Government, for the efficient administration of this Act. In our view, this section will have no relevance to the SRA Scheme which is being developed under the provisions of D.C.Regulations R/W Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (hereinafter referred to as "Maharashtra Slum Act"). As far as this Act is concerned, there is a power to the State Government u/s 3(K) but the section says that the State Government may issue the power for carrying out the purposes of this Act. We fail to understand as to how a parcel of land situated at the heart of the total slum colony could be excluded. The entire parcel of land has already been taken into consideration by SRA when the LOI was issued. That is because there are large number of hutments on the

adjoining areas. That apart, the parcel of land on which the Dhobi Ghat is situated i.e. 770 sq. mtrs. and the entire adjoining area, are owned by the Municipal Corporation. The officers of Municipal Corporation had signed on the earlier maps when the LOI was issued. The LOI gives the area of entire property including this 770 sq. mtrs.. This area will have to be considered together. This is because if the hutment dwellers are to be accommodated, then it cannot be by keeping out the area occupied by the Dhobi Ghat. Some 114 hutment structures are to be removed and relocated in this entire plot. This number includes the seven structure holders whose structures are existing on this Dhobi Ghat area and this is accepted by Mr.Diwan for respondent no.5 and Mr.Y.S.Jahagirdar for respondent no.6. The decision of the Minister surely does not appear to be for efficient administration of the Act nor for the purposes of carrying out the purposes of the Act, whether one looks under the MRTP Act or the Maharashtra Slum Act. This decision was before the Division Bench earlier and thereafter the order was passed that the hearing be provided to the petitioners in Writ Petition No.2967 of 2004.

7. As far as structure holders are concerned, their right is limited only to get accommodation of 225 sq. fts. and as stated by respondents 5 and 6, these structure holders will be accommodated. As far as remaining persons are concerned, it will be open to them, if they are claiming to have their structures and residing over there, to make a representation to the SRA and the SRA will consider their eligibility and if found eligible they will have to be accommodated in this scheme. As such there is a provision for 14 Project Affected Persons' (PAPs) tenements which are becoming available in this scheme as sanctioned earlier. This being the position, in our view, petitioners cannot carry their cause beyond what is noted hereinabove.

8. As far as Lokhandwala Construction Pvt. Ltd. are concerned, Mr.Almeida states that notice was served on them to appear before the SRA on 29th December 2004 but the matter was heard and decided on 28th December 2004. Mr.Utangale points out that under the order of Division Bench hearing was to be given to the petitioners only though a notice was given to the objecting developers also since they were party to the earlier petition. That apart, we have heard

Mr.Almeida who is representing the cause of these builders and the position is very clear that the builders have no locus standi at all beyond whatever is the claim of the slum dwellers. As far as slum dwellers are concerned, they have already floated one scheme. They appointed one developer. That scheme was granted a LOI by SRA and SRA has confirmed that scheme by directing to give Commencement Certificate which order was passed after a direction given by this Court. This being the position, the developer who is seeking to develop the property on behalf of petitioners cannot have anything more to say. Petition accordingly dismissed.

9. Mr.Sakhalkar applies for status-quo to be continued. His request is rejected.

(H.L.GOKHALE, J.)

(S.C.DHARMADHIKARI, J.)